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HIST 370-001: Legal Issues in Media History

Kyle Riismandel

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HISTORY 370
LEGAL ISSUES IN MEDIA HISTORY
FALL 2019

Professor: Dr. Kyle Riismandel
Email: kriis@njit.edu
Room: CKB 314
Time: Tuesday and Thursday, 10-11:20AM
Office: Cullimore 326
Office Hours: Monday 12-1PM, Tuesday and Thursday 1-3PM, and by appointment

Course Description:

In this course, we will consider how legislation and jurisprudence have structured the development of media industries, artists, and end-users in American history. We will examine how media law and policy affect media content and industry behavior as well as artists', citizens', and consumers' rights. In addition, we will contextualize the development of media law within broader social and political currents in American history and analyze how multiple intertwining histories –the advent and adoption of new technologies; the shifts in American politics and culture; the transformation of American social life and leisure; and the interpretation, application, and reinterpretation of American law – collectively have affected the role, content, and structure of media in American life.

Required Texts:

All texts are available for download via Moodle: moodle.njit.edu. **BRING ALL TEXTS TO CLASS (ON PAPER OR ELECTRONICALLY)** as you may need to refer to them during discussion or be asked to use them for class activities.

Course Goals, Expectations, and Assessments:

Course Goals – Students will have:	Assessment
Knowledge of the key legal and cultural issues in 20 th century media history in America.	Reading Quizzes Historian's Brief and Final Exam Class Participation
Competence with the analysis of primary source texts including but not limited to court decisions, legislation, television, music, and Internet texts as well as other popular media.	Historian's Brief Reading Quizzes Class Participation
Experience writing and speaking critically about regulations, laws, and court cases in American media history	All assignments
Identify, analyze, and deploy secondary sources to make historical arguments.	Historian's Brief and Final Exam Class Participation

Course Grade:

Failure to complete all of the assignments will result in an automatic F for the course.

Final grades will be calculated as follows:

- Reading Quizzes: 5 x 3% = 15%
- Historian's Brief Proposal: 5%
- Historian's Brief Draft: 5%
- Historian's Brief Final: 27.5%
- Take-home Final Exam: 27.5%
- Class Participation: 20%

Assignments

Reading Quizzes: Five quizzes will be given throughout the semester to test your comprehension of that week's reading assignments. Depending on the week, the quiz may include questions on more than one reading. These will not be "gotcha" questions but will be used to evaluate your understanding of the key concepts of the reading assignments.

Historian's Brief: This assignment will ask you to prepare an historian's brief for a Supreme Court case from the list of cases on Canvas. In short, this brief will present historical evidence to advocate for a particular outcome in that case. You will propose which case and outcome you will be advocating, write a draft brief, and revise based on my comments to submit a final draft. Further directions will be available via an assignment sheet on Canvas.

Exams: There will be one exam, a take-home final. This exam will test your knowledge of key terms, events, policies, and debates in media history policy debates and will ask you to think critically about the role of government, corporations, and citizens in media regulation in the United States.

Class participation: Students are expected to:

1. Participate actively in all class discussions and activities
2. Be respectful to the instructor and their fellow classmates
3. Arrive to class on time
4. Stay focused on what is happening in our classroom not on chatting or using digital devices.

Further, participation will be assessed not just on quantity but also on quality. Quality participation demonstrates knowledge of the issues at hand, completion of that week's assignments, and a willingness to engage in critical assessment of course texts and lectures. The participation grade may also include pop quizzes and short writing assignments done in class.

I encourage students to check in with me over the course of the semester regarding their class participation performance. Every course is a collaboration between teacher and student so please ask questions, come to office hours, and generally stay involved with me and your classmates. Further, do not wait to contact me if you are falling behind or having trouble understanding course content. Earlier is always better (I'm looking at you Seniors).

Course Policies

Attendance:

Students are expected to attend all course meetings on time unless receiving prior authorization. Missing class will not only adversely affect your class participation grade, but there will be screenings in class that will only be offered during that class period so do your best to attend. If you miss class to attend an NJIT sponsored event, to observe a religious holiday, or due to a documented illness, those absences will be excused. For these absences to count as excused, you must receive permission from the instructor in advance or provide a doctor's note (or other relevant note) in the case of sickness.

Classroom Conduct:

In this course, we welcome intellectual inquiry and thoughtful discussion of difficult questions but hate speech and disrespectful comments will not be tolerated. We must come to class with an open mind, a willingness to learn, and fundamental respect for the humanity of each person in the room and the historical actors we discuss.

Office hours/student appointments:

My office hours will be every Monday 12-1PM and Tuesday and Thursday 1-3PM. I am also available to meet by appointment if students are unable to make it to my office during these times. Feel free to send me an email to set up a meeting if you'd like to talk or have any questions about course topics, assignments, or grades.

Academic dishonesty:

Students are expected to obey the NJIT honor code, and I will enforce this code to its fullest extent. The goal of this course is to evaluate your understanding of course materials and ability to express that understanding. Cheating, plagiarizing or otherwise violating the code of academic integrity not only breaks the trust between professor and student but keeps you from learning course content and improving writing and critical thinking skills. I am here to help so if you are having trouble, do not cheat, ask me for help.

For the tenets of the code or for clarification of what constitutes plagiarism or cheating, please consult: <http://www.njit.edu/academics/honorcode.php>.

Generally speaking, it is a violation of the academic integrity code to:

- Use someone else's words or ideas without attribution
- Copy content from someone else's paper, quiz, or exam
- Pay for course assignments to be complete by someone else

Cell phones, Laptops, Tablets, etc.:

Students must turn off and stow their cell phones before class begins. Under no circumstances may students answer their phones, make calls, send text messages, or use their cell phone in any manner during class hours unless approved by me before class begins. Laptops and tablets may only be used for classwork. If I see a student using a cell phone in class or misusing their laptop or tablet, I will ask the student to leave for the remainder of the class. This policy is not because I do not like using cell phones, laptops, or tablets. This policy is because I do not want to interrupt class to ask you to stop texting, etc. It interrupts the flow of discussion, distracts other students, and keeps us all from doing the work of the course.

Students with Disabilities or Special Needs:

Students who have disabilities or special needs should contact NJIT's Student Disability Services to help procure accommodations in completing coursework. The center can be found at <http://www.njit.edu/counseling/services/disabilities.php>. I am happy to help you in any way I can to learn course content so please register so I can properly assist you.

WEEK 1 – Introductions/Preparing for Success

SEPT 3: Introductions/What is Media?/Why do we study it?/Canvas orientation

SEPT 5: Studying Law and Regulation

Secondary Sources

- Roosevelt University, “The Parts of a Court Decision”
- Orin S. Kerr, “How to Read a Judicial Opinion: A Guide for New Law Students”
- Law Librarians’ Society of Washington, D.C., “Quick Links and Sources to Court Opinions”

WEEK 2 – Telephone

SEPT 10: Lecture: Spreading and Regulating Communications Technology

SEPT 12: Discussion

Secondary Source

Robert Horowitz, *The Irony of Regulatory Reform*, Ch. 5, pp. 126-154

READING QUIZ #1 - HOROWITZ

WEEK 3 – Film/Radio

SEPT 17: Lecture: Film and Regulation of Private Industry

Secondary Source

- Garth Jowett, “A Significant Medium for the Communication of Ideas: The Miracle Decision and the Decline of Motion Picture Censor, 1952-1968,” pp. 258-277, from Frances G. Couvares, ed., *Movie Censorship and American Culture* (1996)

SEPT 19: Lecture: The Public Airwaves and the Public Interest

ASSIGNMENT – HISTORIAN’S BRIEF PROPOSAL DUE SEPT. 19TH BY 5PM

WEEK 4 – Radio/Television

SEPT 24: Discussion

Primary Source

- FCC, “Obscene, Indecent and Profane Broadcasts,” <https://www.fcc.gov/consumers/guides/obscene-indecent-and-profane-broadcasts>

Secondary Source

- Marjorie Heins, “Policing the Airwaves,” pp. 89-109 from *Not in Front of the Children: “Indecency,” Censorship, and the Innocence of Youth* (2001).

SEPT 26: Lecture: From the Airwaves to Coaxial Cable

Secondary Source

- Allison Perlman, *Public Interests: Media Advocacy and Struggles over U.S. Television*, Ch. 2

READING QUIZ #2 – PERLMAN

WEEK 5 – Internet/Net Neutrality

OCT 1: Lecture: Who Owns the Internet?

OCT 3: Discussion

Primary Sources

- FCC Net Neutrality documents - <https://www.fcc.gov/restoring-internet-freedom>

WEEK 6 – Net Neutrality/Monopoly and Media Consolidation

OCT 8: Discussion – The Digital Divide

Secondary Sources

- Kevin R. Kemper, “Tribal Sovereignty Means Competition, Broadband Access, and Economic Development for Indian Country: A Law and Economics Analysis of the Efficiency of the FCC’s Standing Rock Sioux Case”

OCT 10: Lecture: News Media Mergers and Consolidation

WEEK 7 – Monopoly and Media Consolidation II – Services, Platforms, and Access Points

OCT 15: Discussion

Secondary Source

- Marjorie Heins and Mark Cooper, “The Legal and Social Bases of Localism are Stronger than Ever”

READING QUIZ #3 – HEINS AND COOPER

OCT 17: Discussion

Primary Source

- T-Mobile/Sprint Merger Documents

Secondary Source

- Howard A. Shelanski, “Antitrust Law as Mass Media Regulation: Can Merger Standards Protect the Public Interest,” *California Law Review*, Volume 94, Issue 2 (March 2006)

WEEK 8 - First Amendment and the Free Press

OCT. 22: Lecture: First Amendment and the Free Press

OCT 24: Discussion

Secondary Source

- “Wikileaks and the First Amendment,” *Bulletin of the American Academy of Arts and Sciences*, Vol. 65, No. 3 (Spring 2012)

WEEK 9 – Historian’s Brief Workshop

OCT 29: Discussion

OCT 31: Discussion

WEEK 10 - Copyright

NOV 5: Lecture: Sampling and the Legal Aspects of a New Art Form

NOV 7: Discussion

Secondary Sources

- Daphne Keller, “The Musician as Thief: Digital Culture and Copyright Law” in Paul D. Miller, *Sound Unbound: Sampling Digital Music and Culture* (2008), pp. 135-151
- Sarah Jeong, “The Hidden Costs of Streaming Music,” *The Verge*, March 14, 2018

READING QUIZ #4 - KELLER

WEEK 11 – Piracy

NOV 12: Lecture: Online Piracy from Napster to SOPA/PIPA/CISPA

NOV 14: Discussion

Secondary Source

- John Alderman, *Sonic Boom: Napster, MP3, and the New Pioneers of Music*, Ch. 9

ASSIGNMENT: HISTORIAN'S BRIEF DRAFT DUE

WEEK 12 – Privacy

NOV 19: Lecture: Surveillance and the Law: COINTELPRO to the Patriot Act

NOV 21: Discussion

Primary Source

- *The Guardian*, “The NSA Files”

Secondary Source

- Lisa Nelson, “Privacy and Technology: Reconsidering a Crucial Public Policy Debate in the Post-September 11 Era,” *Public Administration Review*, Vol. 64, No. 3 (May - Jun., 2004), pp. 259-269

WEEK 13 – Platforms and Privacy

NOV 26: Discussion

Secondary Sources

- Tarleton Gillespie, *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions that Shape Social Media*, Ch. 1
- Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, Ch. 5

READING QUIZ #5 – EUBANKS

NOV 28: NO CLASS – THANKSGIVING BREAK

WEEK 14 - Platforms and Privacy/Wrap-Up

DEC 3: Discussion

Secondary Sources

- Shoshana Zuboff, *The Age of Surveillance Capitalism*, Ch. 5

DEC 5: Wrap-Up

DEC 10: Final Exam Review

ASSIGNMENTS:

- **HISTORIAN'S BRIEF FINAL DRAFT DUE DECEMBER 11TH AT 5PM**
- **TAKE-HOME FINAL EXAM DUE NO LATER THAN DECEMBER 20TH AT 5PM**